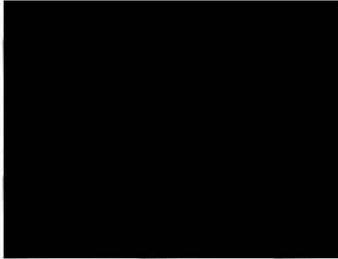




January 23, 2020

By: Email



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Mayor

Department of Law

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Re: [REDACTED] - Private Letter Ruling

Dear [REDACTED]

I am writing in response to your letter dated December 7, 2016 ("Request") (copy attached), requesting a private letter ruling ("PLR") concerning the application of the Chicago Personal Property Lease Transaction Tax ("Lease Tax"), Chapter 3-32 of the Municipal Code of Chicago ("Code"), to the [REDACTED] and [REDACTED] Markets ("[REDACTED]") services offered by [REDACTED] (n/k/a [REDACTED]) (hereafter "[REDACTED]").

Based on the facts set forth in your Request, along with our subsequent communications, including the demonstrations we attended at your offices on March 14, 2019 and October 30, 2019, we find that the charges for [REDACTED] and [REDACTED] are subject to the Lease Tax.

The Lease Tax ordinance defines a nonpossessory computer lease as "a nonpossessory lease in which the customer obtains access to the provider's computer and uses the computer and its software to input, modify or retrieve data or information, in each case without the intervention (other than de minimis intervention) of personnel acting on behalf of the provider." Code Section 3-32-020(I). A customer that subscribes to [REDACTED] and/or [REDACTED] obtains access to [REDACTED]'s computer and uses the computer and its software to input, modify or retrieve data or information. This meets the definition of a nonpossessory computer lease.

This leaves the question of whether [REDACTED] or [REDACTED] qualifies for Exemption 11, which exempts "the nonpossessory lease of a computer in which the customer's use or control of the provider's computer is de minimis and the related charge is predominantly for information transferred to the customer rather than for the customer's use or control of the computer, such as the nonpossessory lease of a computer to receive either current price quotations or other information having a fleeting or transitory character." Code Section 3-32-050(A)(11).

Exemption 11 is discussed in Lease Tax Ruling #12, which states in pertinent part:



January 23, 2020

Page 2 of 2

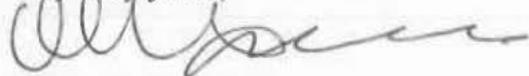
Passive access to information is an exempt use of the provider's computer. In the case of a stock market "ticker-tape," where the customer simply receives the one-way dissemination of a scrolling list of current stock prices for a set group of businesses. In that case, the customer's use of the provider's computer is de minimis, as there is no search function (or at most a single or infrequent "channel" selection), and the charge is predominantly for information transferred to the customer (in the form of one-way "streaming"). Ruling #12 par. 10.

It is our understanding that a customer who subscribes to [REDACTED] receives access to the [REDACTED] database, which includes information, analytics and news about all major financial markets. The customer can customize "on the front end" the type and scope of data that the customer wishes to retrieve from the database based on what is most relevant to its business and to conduct research using the available information. The customer's ability to search for and retrieve specific data based on its individual needs constitutes more than a de minimis use. Especially in view of the rule that exemptions are to be narrowly construed, it is our judgment that [REDACTED] does not qualify for Exemption 11.

[REDACTED] likewise gives customers access to various delayed and real-time market information, company-specific information, news, statistics and analytics and alerts. Customers have the ability to obtain the information relevant to their business, including blocking and selecting various tickers, and through full text searching of real-time news. As with [REDACTED], the [REDACTED] user's ability to retrieve specific data based on its individual needs constitutes more than a de minimis use. It is our judgment that [REDACTED] does not qualify for Exemption 11.

This PLR is based on the text of the Lease Tax ordinance as of the date of this letter and the facts as represented in the Request being true. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to Code Section 3-4-325. Please be advised, however, that pursuant to Uniform Revenue Procedures Ordinance Ruling #3, Section 12, reliance on written advice in a PLR that is ten or more years old shall be deemed not reasonable unless ratified in writing by the Corporation Counsel's Office.

Very truly yours,



Weston W. Hanscom

cc: Elaine Herman, Department of Finance  
Brian Carlson, Department of Finance



Telephone  
Fax

December 7, 2016

Ms. Elaine Herman  
Supervisor of Tax Policy  
Chicago Department of Finance  
333 South State Street, Suite 300  
Chicago, IL 60604-3977

Dear Ms. Herman:

On behalf of our client, [REDACTED], ("Company"), [REDACTED] respectfully requests the Chicago Department of Finance (the "Department") to issue a letter ruling ("ruling") with respect to the following factual situation.

The Company is in the business of providing its customers with market related information. We are requesting a ruling on behalf of Company as to whether its service offerings, [REDACTED] and [REDACTED] Markets, are subject to the Personal Property Lease Transaction Tax ("PPLTT"). The Company and [REDACTED] would like to reserve the opportunity to discuss preliminary responses prior to the issuance of conclusions by the Department.

**General Information**

1. Enclosed please find a copy of the Power of Attorney and Declaration of Representative, authorizing [REDACTED] to represent the Company before the Department (attached as Exhibit A). The original Power of Attorney and Declaration of Representative is on file with the Department in conjunction with the ongoing audit.
2. This ruling is not requested with regard to hypothetical or alternative proposed transactions. This ruling is requested to determine the PPLTT consequences of the actual business practices of the Company.
3. The Company is not currently engaged in litigation with the Department with regard to this or any other tax matter.
4. To the best knowledge of the Company's personnel, the Department has not previously ruled regarding this matter for the Company. In addition, the Company previously has not submitted the same or similar issue to the Department.
5. The Company requests that certain information be deleted from the ruling prior to dissemination to others. The Company requests deletion of its name, business product names, addresses, locations of facilities, description of facilities, and the name of its representative.
6. The Company knows of no authority contrary to the authorities referred to and cited below.

[REDACTED]

██████████

### Statement of Material Facts

Company, through its affiliate-██████████, primarily derives revenue by providing its customers with market related information. The information can take many forms (stock prices, commodity prices, relating to domestic or foreign entities, for current or historic periods, be market focused or industry focused, etc.) and is continually being updated. Company's clients often buy these information services in bundles. Each bundle contains various information subscription modules, but nearly all bundles contain some kind of real time market price quotation module. Company operates globally and is headquartered outside of Illinois, but maintains an office in the city of Chicago and many of its subscribers are in the city of Chicago. Company licenses very little delivered software and virtually all of its revenue is currently derived from provision of information which is accessed remotely by its customers who use their own devices (computers, phones, tablets, etc.) to access content to which they have subscribed. In order to access these information services, users must download Company's front end software (e.g., an API, applet, desktop agent, etc.).

At issue in the present ruling request are Company's ██████████ and ██████████ Markets service offerings.

#### ██████████ ("██████████")

Designed for financial professionals seeking to profit from trading and investment opportunities around the globe, ██████████ delivers a combination of information, analytics, and exclusive news on financial markets. ██████████ covers all major financial markets (e.g., equity, fixed income, commodities, foreign exchange, etc.) and provides effective compliance and risk management, investment management, and wealth management solutions. From desktop or mobile devices, users can instantly connect to new and emerging markets, deep and varied pools of liquidity, professional networks, and expert support. ██████████ provides comprehensive financial analysis through which users can discover more opportunities and make crucial decisions with confidence.

Users customize their experience in ██████████ on the front-end to provide the information most relevant to them. After downloading and installing the application interface, users configure ██████████ to display the data, news, and other information that relates to markets or asset classes relevant to their business. Company then continually pushes this selected information and news to the users. The base subscription includes access to a variety of analytical content, news, and tools. Users are charged a flat fee for access to ██████████, though additional add-ons are available for a separate fee (e.g., third party news sources and private equity benchmarking). Provided below is a summary of the information/tools included with ██████████. A detailed, itemized listing of the services is also attached as Exhibit B.

██████████ brings together information from trusted sources for a variety of markets, including equities, commodities, fixed income, and foreign exchange/money markets. ██████████ delivers global, multi-asset pricing data covering ██████████ currencies with data from ██████████ contributing sources.

██████████ includes advanced research capabilities. With over ██████████ million items available, ██████████ uses extensive tagging and cross-reference capabilities to present faceted views, delivering relevant results to users to increase productivity. ██████████ also provides access to embargoed research reports and sources.

██████████ has the broadest and deepest company data available, with significant drill-down detail. With over ██████████ years' experience in first-hand collection across ██████████ countries, users can obtain information for ██████████% of the global market capitalization; ██████████ exchanges in ██████████ countries; ██████████ active companies; and ██████████ inactive companies.

██████████'s powerful charting tools help users quickly grasp and act on large amounts of information. Charts are seamlessly integrated with search and other core capabilities, giving users desktop and mobile access to unique analysis and faster functionality.

With ██████████, users have access to ██████████ news service. ██████████ offers real-time and historical financial news, information, and analysis spanning every global asset class, including foreign exchange, fixed income, equities, commodities, alternative investments, and real estate. ██████████ is a news analysis and filtering service which provides a concise description of crucial, market-moving company news and events. Going beyond breaking news, ██████████ provides in-depth commentary and analysis on market news. ██████████ supplements its ██████████ News service with a wealth of third party news and information, with over ██████████ real-time streaming news sources and news wires, and over ██████████ near real-time archived sources. These third party sources offer global and local news, encompassing business, economic, political and industry content.

██████████ also provides access to ██████████ estimates, a comprehensive database of over ██████████ analyst estimates. Providing a wide breadth of coverage, ██████████ sets the standard for financial estimates with analyst detail, consensus, and aggregate data. This covers estimates for over ██████████ companies across ██████████ countries. Users can gain advantage on their competitors with ██████████ a predictive analytics program which ranks each analyst's performance based on a unique, patented method.

██████████ also comes bundled with a communication system, ██████████ Messenger. ██████████ Messenger allows users to send secure instant messages as well as live data, charts, and analytics. This network is open to any participant in the financial industry and there is no need to be a ██████████ customer or ██████████ subscriber. Messenger works across multiple chat platforms (e.g., Yahoo, AOL, MSN, etc.).

#### ██████████ Additional Paid Add-On Services

In addition to the base product, ██████████ offers several add-on services for an additional fee. These services can either be billed separately to the customer by ██████████ as a separate line item on the invoice or directly by the Exchange provider.

One add-on includes access to additional third party news sources (e.g., ██████████). By purchasing these news services as an add-on rather than directly from the provider, users can view the news feeds in the ██████████ platform.

The ██████████ Add-On provides advanced screening and reporting on over ██████████ funds globally on numerous Asset Classes ranging from Venture Capital to Fund of Funds. This add-on allows users to build more meaningful and timely private equity benchmarks. Benchmarks are based on one of the industry's largest institutional quality datasets, with all data directly sourced from contributing fund managers' financial statements and subjected to additional layers of rigorous quality control. Users receive a full range and depth of additional data modes, report types and fund criteria options to perform a more powerful, customized analysis. Built-in time-saving tools and features help users execute tasks quicker and make for more efficient workflows day-to-day.

██████████ (██████████)" allows users to stay on top of the global markets with a complete and powerful collection of data and decision support tools designed for financial advisors. ██████████ integrates news from a global network of journalists, research, and analytics so users get the right information to deliver personalized and timely advice.

█ allows users to access delayed and real-time quotes and interactive charts, access to over █ news sources, summary-level estimates and fundamentals, company-specific information, broad market statistics and analytics, and productivity tools including alerts. These flexible tools give users: real-time quotes and streaming ticker; market monitors; a first call events calendar; information on industry groups and sectors; the ability to block and select tickers; interactive charting; market indices; market and business pulse; real-time news with scrolling headlines and full-text search; trades and quotes with volume-weighted average price ("VWAP"); and historical data that goes back 30 years.

Users can also tailor their experience with a variety of complementary tools and content. These optional real-time tools include: access to █ News, Stock Reports+, financial calculators, access to the last 5 years of deals data of M&A transactions, and more.

### ***Ruling Requested***

On behalf of the Company, we respectfully request the Department to rule that Company's █ and █ service offerings are not subject to the PPLTT as they are subject to the state's Service Occupation Tax ("SOT") due to the transfer of software necessary to access the service. Additionally, we request the Department rule that, even if the SOT did not apply, the █ and █ services would be exempt as being for information having a fleeting or transitory character, access to data rather than software, and/or granting access to proprietary information.

### **RELEVANT AUTHORITIES**

The Chicago Personal Property Lease Transaction Tax is imposed upon (1) the lease or rental in the City of Chicago of personal property, or (2) the privilege of using in Chicago personal property that is leased or rented outside the city.<sup>1</sup> "Lease' or 'rental' means any transfer of the possession or use of personal property, but not title or ownership, to a user for consideration, whether or not designated as a lease, rental, license or by some other term, and includes a 'nonpossessory lease'.<sup>2</sup> "Use' means the exercise of any right to or power over personal property by a lessee incident to the lease or rental of that property. . . ."<sup>3</sup>

The term lease is broadly defined to include "nonpossessory leases", including "nonpossessory computer leases."<sup>4</sup> The definition of "nonpossessory computer lease" specifies that for purposes of taxation of such leases, "use" of a computer is deemed to occur at the location of the access device used to access the remote computer.<sup>5</sup> Therefore, "if the user's access device is located in the City of Chicago, the Lease Tax applies to all charges for the use of the computer and its software including, but not limited to, the running or execution of computer programs, or the access, input, retrieval, or modification of data or information which are accessed by the user from such device."<sup>6</sup> It is through this Ordinance definition that Chicago asserts its jurisdiction to tax such transactions involving "personal property" which physically resides outside its jurisdictional borders.

There are several exemptions to the lease transaction tax, including nonpossessory leases of a computer "in which the customer's use or control of the provider's computer is de minimis and the related charge is predominantly for information transferred to the customer rather than for the customer's use or control of the computer, such as the nonpossessory lease of a computer to receive either current price quotations or other information having a fleeting or transitory character."<sup>7</sup>

### ***Guidance from prior cases and rulings***

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<sup>1</sup> Chicago Municipal Code § 3-32-030(A).

<sup>2</sup> Chicago Municipal Code § 3-32-020(I).

<sup>3</sup> Chicago Municipal Code § 3-32-020(R).

<sup>4</sup> Chicago Municipal Code § 3-32-020(I).

<sup>5</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #9 (effective June 1, 2004).

<sup>6</sup> *Id.*

<sup>7</sup> Chicago Municipal Code §3-32-050(11).



### *Ruling Number 3*

In a 2004 tax ruling, the city of Chicago noted that the “lease or rental of personal property includes lease time on personal property not itself rented, such as usage time on a computer, data processing equipment, copying machines, etc.”<sup>8</sup> As such, the Department opined that the rental or usage of time on computer software is subject to tax.<sup>9</sup>

### *Ruling Number 5*

“For time-sharing purposes (where the possession of the computer is not transferred), the user of the computer shall be deemed using the computer at the location of the user’s access terminal to the computer. Therefore, if the user’s terminal is within the City, the lease tax will apply to all charges for the use of the computer and its software, which is accessed by the user at such terminal.”<sup>10</sup>

The lease of computer software in the City is subject to the lease tax, but the sale of computer software is not.<sup>11</sup> “Pursuant to Code Section 3-32-020(I), any transfer of personal property that is not a sale is a lease. Therefore a transfer of software that meets the five-part test set forth in 86 Illinois Administrative Code Section 130.1935 is a lease, subject to the lease tax.”<sup>12</sup>

### *Ruling Number 9*

Personal Property Lease Transaction Tax Ruling 9 provides that the lease or rental of personal property includes “time-sharing and time or other use of a computer with other users, whether or not denominated as such.”<sup>13</sup> In these cases, the Ruling notes, “possession of the computer is neither transferred nor intended to be transferred.”<sup>14</sup> Instead, “the owner of the computer permits use of the computer through a terminal or other device (“access device”) at the user’s location for a fee.”<sup>15</sup> “Where possession of the computer is not transferred, use of a computer is deemed to occur at the location of the access device used to access the computer. Therefore, if the user’s access device is located in the City of Chicago, the lease tax applies to all charges for the use of the computer and its software”<sup>16</sup>

Unless charges for the use of the computer include charges for services performed by the owner’s personnel at the time of the transaction, the transaction is considered to involve charges “solely for the use of personal property and not for the sale of a service.”<sup>17</sup>

### *Ruling Number 12*

Personal Property Lease Transaction Tax Ruling Number 12, effective July 1, 2015, states that “passive access to information is an exempt use of the provider’s computer.”<sup>18</sup> In the case of a stock market “ticker-tape,” where the customer simply receives the one-way dissemination of a scrolling list of current stock prices for a set group of businesses.”<sup>19</sup> In that case, the customer’s use of the provider’s computer is de minimis, as there is no search function and the charge is predominantly for information transferred to the customer (in the form of one-way “streaming”).<sup>20</sup>

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<sup>8</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #3, Section 2 (effective June 1, 2004).

<sup>9</sup> *Id.*

<sup>10</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #5, Section 2 (effective Sept. 1, 2013).

<sup>11</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #5, Section 5 (effective Sept. 1, 2013).

<sup>12</sup> *Id.*

<sup>13</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #9 (effective June 1, 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at (3)(B)

<sup>18</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #12 (effective July 1, 2015).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Access to materials that are primarily proprietary is also an exempt use of the provider's computer.<sup>21</sup> The customer may pay a subscription fee for the ability to download or otherwise access the desired information or data, and the subscription fee may allow the customer to use a search function to locate the information or data that the customer wishes to download or otherwise access, but the value of the search function is subordinate to the value of the information or data that the customer wishes to download or otherwise access (i.e., the charge is predominantly for the information or data).<sup>22</sup> This typically applies in the case of a web site or "app" that allows a subscriber to download or otherwise access materials that are primarily proprietary, such as copyrighted newspapers, newsletters, or magazines, that the subscriber would have to purchase at a "bricks and mortar" store.

As a general rule "a subscription to an interactive web site will be subject to the lease tax, and will not be exempt, even if most or all of the information available on the web site is fleeting or transitory."<sup>23</sup> This would include, for example, a web site that provides financial research, information and analytical tools."<sup>24</sup>

The effects of Ruling Number 12 are limited to periods on and after January 1, 2016.<sup>25</sup> Prior to Ruling Number 12, the Department had generally interpreted the reference to "fleeting and transitory" information as exempting certain products that provide financial market data.<sup>26</sup> Ruling Number 12 clarified that such uses are exempt only if the receipt (and any usage) is simply the passive receipt of information.<sup>27</sup>

### **Additional Published Guidance**

#### *Chicago Department of Revenue Information Bulletin: Nonpossessory Computer Leases*

There is an exemption for usage that is de minimis where the charge is predominantly for information rather than usage (Exemption 11).<sup>28</sup> "De minimis" usage means that the information is delivered passively, with a minimum of search or other functionality, except in certain circumstances where the information is predominantly (i.e., primarily) proprietary.<sup>29</sup>

Determining whether a charge is predominately for information, or whether the information is predominantly proprietary, is necessarily a fact and circumstances test, and it requires an assessment of the relative value of the information versus the search or other functionality.<sup>30</sup> In most cases, information that is in the public domain will not have sufficient independent value to meet this test.<sup>31</sup>

Examples of proprietary information include copyrighted newspapers, newsletters, or magazines that the subscriber would have to purchase if the materials were acquired or accessed through other means, such as a purchase at a "bricks and mortar" store.<sup>32</sup> The fact that the sign and features of a web site may be proprietary does not mean that the information on the web site is proprietary.<sup>33</sup> Likewise, the fact that the procedures and systems used to create and maintain the database may be proprietary does not mean that the information on the web site is proprietary.<sup>34</sup> Also, the fact that some information on the web site may be proprietary (such as notes or commentary), does not mean that the charge paid by the customer is primarily for proprietary information.<sup>35</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> November 2015 *Information Bulletin: Nonpossessory Computer Leases*.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*



## State Guidance

### *Statutes*

The Service Occupation Tax ("SOT") is imposed upon "all persons engaged in the business of making sales of service (referred to as "servicemen") on all tangible personal property transferred as an incident of a sale of service, including computer software..."<sup>36</sup>

"Transfer" means "any transfer of the title to property or the ownership of property whether or not the transferor retains title or security for the payment of amounts due him from the transferee."<sup>37</sup>

### *Additional Guidance*

In a recent General Information Letter, the Illinois Department of Revenue stated that a provider of software as a service is acting as a serviceman.<sup>38</sup> If the provider does not transfer any tangible personal property to the customer, then the transaction generally would not be subject to the Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax.<sup>39</sup> If the provider transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, it appears the customer is receiving computer software that is subject to tax.<sup>40</sup> Although there may not be a separate charge to the customer for the computer software, it is nonetheless subject to tax, unless the transfer qualifies as a non-taxable license of computer software.<sup>41</sup> If the provider, as a serviceman, is not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act ("ROT") and qualifies as a de minimis serviceman, the provider could elect to pay Use Tax on its costs of the computer software.<sup>42</sup>

## DISCUSSION AND ANALYSIS



### *Illinois Service Occupation Tax*

As noted above, in a recent General Information Letter the Illinois Department of Revenue found that if the provider of software as a service (i.e., the serviceman) transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, the customer is receiving computer software subject to tax. Although there may not be a separate charge for the software, it is subject to SOT unless it qualifies as a non-taxable license of computer software.

Pursuant to Personal Property Lease Transaction Tax Ruling #5, the lease of computer software in the City is subject to the lease tax, but the sale of computer software is not. As such, a transfer of software that meets the five-part test set forth in 86 Illinois Administrative Code Section 130.1935 is a lease, subject to the lease tax. In reaching this conclusion, the Ruling cites both the City Code's definition of a lease ("any transfer of the possession or use of personal property, but not title or ownership") and the State's definition of a "sale at retail" ("any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption").

While the lease tax's relation to the SOT is not directly addressed either in statute or ruling, it is analogous to the ROT. The SOT is imposed "upon all persons engaged in the business of making sales of service (referred to as "servicemen") on all tangible personal property transferred as an incident of a sale of service, including computer software..." "Transfer" means any "transfer of the title to property or the ownership of property..." For SOT to apply, there must be a transfer of title or ownership. As Code Section 332-020(I) defines a lease as "any transfer of the possession or use of personal property, but not title or ownership," if the SOT applies on a transfer of software, the lease tax cannot.

In order to access  services, users must first download and install 's application interface. Using this software, users can customize their experience in  on the front-end to provide the information most relevant

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<sup>36</sup>35 ILCS § 115/3.

<sup>37</sup> 35 ILCS § 115/2.

<sup>38</sup> Illinois General Information Letter 16-033 (8/17/2016)

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

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to them. Illinois has stated that such software when transferred during the provision of software as a service, it is subject to SOT, provided that the transfer is not an exempt license of software. As the ██████████ software does not meet the five-part test set forth in 86 Illinois Administrative Code Section 130.1935, the transfer is subject to SOT. As a de minimis serviceman, Company can elect to pay Use Tax on its costs of the software.

Even if the transfer of software was not subject to SOT, the ██████████ service would not be subject to the lease tax. Company's ██████████ service provides a collection of diverse offerings designed for financial professionals for a bundled subscription price, many of which, if charged for separately, would largely be exempt as news and information services. The majority of these services can be characterized as information either having a fleeting or transitory character or proprietary information which is passively pushed to users' computers.

As the services would be predominantly exempt if separately stated, ██████████ should not be subject to the Personal Property Lease Transaction Tax.

Under Ruling 12, passive access to information is an exempt use of the provider's computer. The Ruling gives the example of a stock market "ticker-tape" for which the customer simply receives the one-way dissemination of a scrolling list of current stock prices for a set group of businesses. In that case, the customer's use of the provider's computer is de minimis, as there is no search function and the charge is predominantly for information transferred to the customer (in the form of one-way "streaming").

██████████ provides market related information services that are changing daily if not each second. Some of the information content may not change as frequently, but it is nonetheless fleeting in nature as it is constantly being updated. On initial setup, users configure ██████████ themselves so it displays the information, data, and news most relevant to them and their business. After this setup is complete, the information is continually and passively pushed to users' computers. The majority of this information is inherently transitory in nature and akin to stock market "ticker tape." For example, access to ██████████ provides: real-time exchange data from over ██████████ exchanges; exchange traded futures and options information; real-time pricing for government debt, credit and structured markets from over ██████████ contributors, including brokers; real-time content for FRAs, Caps & Floors, Swaptions, market-makers, and exchanges; intra-day pricing updates; real-time pricing service on over ██████████ issues in the fixed income market; real-time spots, crosses, forwards, NDFs, options, and deposits for the foreign exchange market; market moving economic indicators with real-time updating of ██████████ series; and ██████████ Polls on economic indicators and central bank policy decisions. This information is among the most critical for the intended users of this service in the financial industry.

Access to materials that are primarily proprietary is also an exempt use of the provider's computer. Under guidance provided by the Department, the customer may pay a subscription fee for the ability to download or otherwise access the desired information or data, and the subscription fee may allow the customer to use a search function to locate the information or data that the customer wishes to download or access, but the value of the search function is subordinate to the value of the information or data that the customer wishes to download or otherwise access. This includes web sites or apps that allow a user to download or otherwise access materials that are primarily proprietary, such as copyrighted newspapers, newsletters, or magazines. ██████████ provides access to a variety of first and third party news sources, including: ██████████ news service; ██████████ Briefs; commentary and specialist ██████████ services; ██████████ Insider; and third party news services, including over ██████████ real-time streamlining news sources and news wires from sources such as the Hong Kong Economic Times, The Economist, Washington Post, Euromoney, etc. ██████████ also provides users with proprietary market analysis, information, and embargoed research.

As opposed to the fleeting and transitory data feeds above, these news and analysis services are primarily proprietary. Therefore, the access to the information is an exempt use of Company's computer. Per Department's guidance, this exemption is not affected by the presence of a search function to locate the information as the value of said function is subordinate to the value of the information or data that the customer wishes to download. Users pay for and access this news and information (embargoed content, exclusive analysis, etc.) to gain a competitive advantage. Users can even customize their ██████████ experience to receive the news that is relevant for their industry without having to access the search functions.

[REDACTED]

If charged separately, the fees would mostly be for exempt news and information services. As such, the [REDACTED] subscription fee is predominantly for exempt usage and should not be subject to the Personal Property Lease Transaction Tax.

Additionally, when the data of a fleeting nature and news services are viewed together, it is clear that customers are purchasing access to data and information rather than software. The predominant purpose of the [REDACTED] service is for the news, data, and information that Company pushes to customers. The *American Heritage Dictionary* defines the word "predominant" as "[h]aving greatest ascendancy, importance, influence, authority, or force" or "[m]ost common or conspicuous; main or prevalent." "Predominant" does not mean that it has to be the majority – that is 50% plus 1. Instead, "predominant" merely must be the largest of all considerations. On setup, users customize [REDACTED] to provide the information most important to them, which Company then continually pushes to their system. In this way, users indicate what aspect of [REDACTED] has the most importance to them and their business. While there are search capabilities and analysis features available in [REDACTED], these are subordinate to the value of the pushed information as users are pushed the most relevant data.

Similar to the news and information services offered as part of the base [REDACTED] subscription price, the purchase of third party news sources should be exempt as charges for primarily proprietary information. These are copyrighted news sources that could also be purchased separately through the news sources' websites. The purchase as an add-on through [REDACTED] is merely for the user's convenience.

[REDACTED]

Similar to [REDACTED], [REDACTED] requires users download an application interface to use the service. As the transfer of the software confers title or ownership to the property, it is not a "lease" subject to the lease tax. Rather, the transfer will be subject to the SOT.

Additionally, [REDACTED] includes access to a combination of proprietary news sources and market information of a fleeting or transitory character designed to help users render timely advice to their client. [REDACTED] pushes real time market quotes to users in the form of a streaming ticker as well as other market monitors. [REDACTED] also integrates proprietary news from [REDACTED]' global network of journalists, research, and analytics, which would be exempt as charges for access to materials that are primarily proprietary if charged separately. As per the above analysis, the fees would be predominantly for the exempt news and information services if charged separately, so the entire charge should not be subject to Personal Property Lease Transaction Tax.

### **Conclusion**

We respectfully request that the Department issue a ruling stating that Company's [REDACTED] and [REDACTED] [REDACTED] service offerings are not subject to the Personal Property Lease Transaction Tax under Chicago Municipal Code §3-32-030(A).

If the Department cannot make this ruling, we request that the Department contact us at (312) 665-2897 to determine what additional information is required or allow the taxpayer to withdraw this ruling request.

Very truly yours,

[REDACTED]

[REDACTED]

[REDACTED]

Senior Manager





[REDACTED]

Audit Case No. 2918

Supplement to Power of Attorney

	Name	Address	City/State/ZIP	Telephone	Facsimile	Email
1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	Designation	Jurisdiction	Signature	Date
1	6	IL, MN	[REDACTED]	8/16/2012
2	1	IL	[REDACTED]	8/16/12
3			[REDACTED]	8/16/2012
4	1	MO, DC	[REDACTED]	8/16/2012

10